

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.3249 of 2015

Date of decision : 17.05.2016

Manpreet Kaur

...Petitioner

Versus

Baljit Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Veneet Sharma, Advocate for the petitioner.

Mr. Rimple Saini, Advocate for
Ms. Rakhi Sharma, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

Mr. Veneet Sharma, learned counsel appearing on behalf of petitioner-wife, submits that divorce petition has been dismissed in default on 16.01.2014 and the application for restoration in this regard was filed but the same has been dismissed being barred by 5 days of delay though there was no delay and on acquiring the knowledge of the same on 21.02.2014, application for restoration in this regard was filed on the same day. This aspect has not been noticed by both the Courts below.

Mr. Rimple Saini, Advocate for Ms. Rakhi Sharma, learned counsel appearing on behalf of respondent-husband submits that there is no

illegality and perversity in the order under challenge. Application was delayed i.e. filed beyond 30 days and urges this Court for affirming of the findings.

I have heard learned counsel for the parties and appraised the paper book and of the view that Court below has committed illegality in dismissing the application as there is specific averments that on acquiring of the knowledge on 21.02.2014, application for restoration was filed on the same date which is not barred by 5 days delay. Limitation starts from the date of acquisition of knowledge. Application was filed on acquiring the knowledge of the order of dismissal in default. It is also a matter of record that realizing objection from other side, application under Section 5 of the Limitation Act was also filed, the same has not been considered. Be that as it may but the fact remains that parties should not be made to suffer on the lapse of the counsel. No harm would be caused to the other side in case divorce petition is restored to its original number.

For the reasons stated hereinabove, impugned order is set aside.

Application seeking restoration of the divorce petition is allowed.

Divorce petition is restored to its original number.

Revision petition stands allowed.

17.05.2016

pawan

**(AMIT RAWAL)
JUDGE**